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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/593,818  
Filing Date: July 13, 2007  
Appellant(s): DAM NIELSEN, PETER

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Mark E. Wilinski  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 7/8/11 appealing from the Office action mailed 3/17/11.

**(1) Real Party in Interest**

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The following is a list of claims that are rejected and pending in the application:

Claims 1, 5-7, and 9-13 are rejected

Claims 1, 5-7, and 9-13 are pending

**(4) Status of Amendments After Final**

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

**(5) Summary of Claimed Subject Matter**

The examiner has no comment on the summary of claimed subject matter contained in the brief.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

### **(7) Claims Appendix**

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

### **(8) Evidence Relied Upon**

6,529,144	Nilsen et al.	3-2003
7,130,583	Skorpik	10-2006
6,449,492	Kenagy et al.	9-2002

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1,5-7, and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nilsen et al. (US 6,529,144) in view of Skorpik (US 7,130,583), and further in view of Kenagy et al. (US 6,449,492).

Regarding claim 1, Nilsen teaches a method comprising:

detecting a change of state of motion of an apparatus (motion sequence is detected by motion sensor);

triggering the activation of a device function or changing the mode of a device based on a detected motion sequence (column 2, lines 59-67; column 3, lines 1-10; column 4, lines 55-65).

Nilsen teaches that the motion sequence can be any sequence (column 4, lines 66-67; column 5, lines 1-14), but does not explicitly teach that the motion sequence that

triggers the device function is from a state in which the apparatus is substantially at rest, to a state in which the apparatus is in motion. Skorpik discloses wireless communication devices and movement monitoring methods (title). Skorpik teaches that an operational state of a device may be changed based on a detection of movement from a state of absence (substantially at rest) to a state of presence (in motion) (column 5, lines 5-22). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Nilsen, to allow a motion sequence to be used wherein the device is substantially at rest and then changes to a state of motion, as taught by Skorpik, in order to conveniently activate a function or enter information into the electronic device without having to press a key. Furthermore, one of ordinary skill in the art would recognize that the two teachings could be combined because the invention of Nilsen is not limited to the type motion sequence used to activate the function, thus a user could program this type of motion as a motion sequence if desired.

In the combination of Nilsen and Skorpik, Nilsen teaches that the motion sequence can activate any function of the electronic device (column 4, lines 55-65), but does not explicitly teach that the motion sequence triggers the monitoring for a user-induced input activity during a predetermined time period, and as a result of an absence of any user-induced input activity during the predetermined time period, activating an input lock in the terminal apparatus. Kenagy discloses an apparatus and method for preventing inadvertent operation of a manual input device (title). Kenagy teaches that a key lock activation (activating an input lock) occurs automatically after the device does not receive an input from either the keypad or the switch (absence of user-induced

activity) (column 4, lines 46-64). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Nilsen and Skorpik, to allow the key lock function of Kenagy to be activated in the case when a motion sequence unlocks or puts the device in an active mode. This modification would prevent inadvertent operation of when a manual input of the device is accidentally actuated after a period of inactivity or when the user doesn't intend to use the device.

Regarding claim 5, Skorpik teaches the method according to claim 1, wherein said step of detecting that the apparatus is substantially at rest includes monitoring, during a second predetermined time period, any motion of the apparatus and, when said second predetermined time period has lapsed and motion of the apparatus has not been detected, establishing that the apparatus is substantially at rest (active operational period is followed by dormant operational state after the elapse of a predetermined time period) (column 5, lines 5-22, 55-61).

Regarding claim 6, Nilsen teaches the method according to claim 1, where detecting a change of state of motion includes detecting acceleration (motion sensor/accelerometer) in any spatial direction (column 2, lines 59-67).

Regarding claims 7 and 10, the limitations are rejected as applied to claim 1. Regarding claim 9, the limitations are rejected as applied to claim 6.

Regarding claim 11, Skorpik teaches the method of claim 1, wherein detecting a change of state of motion of the apparatus comprises determining that a motion detector (motion sensor/accelerometer) included in the terminal has triggered an

interrupt (motion processor detects that a motion sequence has occurred and sends interrupt to device controller) (column 2, lines 59-67; column 3, lines 1-10).

Regarding claim 12, Nilsen teaches the apparatus of claim 7, further comprising: a motion detector (motion sensor/accelerometer), wherein the instructions that, when executed by the processor (motion processor), cause the apparatus to detect a change of state of motion of the apparatus include instructions that, when executed by the processor, cause the apparatus to determine that the motion detector has triggered an interrupt (motion processor detects that a motion sequence has occurred and sends interrupt to device controller) (column 2, lines 59-67; column 3, lines 1-10).

Regarding claim 13, Kenagy teaches the computer readable medium of claim 10, wherein the instructions that, when executed by the terminal, cause the terminal to determine an absence of user-induced activity in the terminal include instructions that, when executed by the terminal, cause the terminal to determine an absence of a depression of a key located on the terminal (no input from either keypad or switch) (column 4, lines 46-64).

#### **(10) Response to Argument**

#### **Rejection Of Claims 1, 5-7, And 9-13 Under 35 U.S.C. § 103(a) Over Nilsen, In View Of Skorpik And Further In View Of Kenagy**

##### **1. Independent Claim 1 And Dependent Claims 6 And 11**

Appellant argues that Kenagy fails to describe a key lock activation condition (e.g. the alleged monitoring) being triggered by detecting a change of a state of motion of the system for which the Examiner respectfully disagrees. In response to appellant's

argument against Kenagy individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Nilsen teaches detecting a change of state of motion and triggering a device function by the detection of the change of state of motion (column 1, lines 62-66; column 2, lines 59-67; column 3, lines 1-24; column 4, lines 40-65). The combination of Nilsen and Skorpik is the invention of Nilsen modified to allow the device function to be triggered based on the detection of movement from a state in which the apparatus is substantially at rest, to a state in which the apparatus is in motion, which is taught by Skorpik (column 4, lines 55-67; column 5, lines 1-22). The combination of Nilsen, Skorpik, and Kenagy is the combination of Nilsen and Skorpik modified to allow the device function that is triggered when the apparatus goes from a state of rest to a state of motion to be monitoring for a user-induced input activity during a predetermined time period, and as a result of an absence of any user-induced input activity during the predetermined time period, activating an input lock in the terminal apparatus, which is taught by Kenagy (column 4, lines 46-64). Nilsen, Skorpik, and Kenagy therefore in combination teach a key lock activation condition being triggered by a detection of a change of state of motion of the system.

Appellant also argues that one of ordinary skill in the art would not have combined Nilsen and Kenagy (with Skorpik) in the manner suggested in the Office Action. In response to appellant's argument that there is no teaching, suggestion, or motivation to combine the references, the examiner recognizes that obviousness may

be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR International Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, Nilsen is combined with Skorpik in order to conveniently activate a function or enter information into the electronic device without having to press a key which is an object of Nilsen (column 1, lines 28-64). The combination of Nilsen and Skorpik is combined with Kenagy in order to activate a key lock function in the case when a motion sequence unlocks or puts the device in an active mode which would prevent inadvertent operation of when a manual input of the device is accidentally actuated after a period of inactivity or when the user doesn't intend to use the device which is an object of Kenagy (column 1, lines 51-63). Additionally, Nilsen is not limited to the stored motion sequence or the device function activated by detection of the stored motion sequence which provides further support for the combination.

Claims 6 and 11 depend from claim 1 and are rejected by the applied art for at least the same reasons as claim 1.

## **2. Dependent Claim 5**

Appellant argues that Skorpik fails to teach monitoring for motion of a device during a second predetermined time period and establishing that the device is substantially at rest when the predetermined time period has lapsed for which the

Examiner respectfully disagrees. Skorpik teaches that the elapse of a predetermined period of time controls the return of the active operational state to the dormant operational state (column 5, lines 40-54). The dormant operational state reads on the claimed "state in which the apparatus is substantially at rest" and the active operational state reads on the claimed "state in which the apparatus is in motion". The predetermined time period is read as a "second predetermined time period" because it is a different time period than the time period used to detect input activity. The return of the device from the active to the dormant operational state after an elapse of a predetermined period of time suggests that the device has not moved in that period of time because the active operational state is dependent on the detection of motion (i.e. the device is always in active operational state when moved). Skorpik therefore teaches under these interpretations monitoring motion of a device during a second time period and establishing that the device is substantially at rest when the predetermined time period has lapsed.

**3. Independent Claim 7 And Dependent Claims 9 And 12**

Independent claim 7 recites "detect a change of state of motion of the apparatus from a state in which the apparatus is substantially at rest, to a state in which the apparatus is in motion; monitor for a user-induced input activity during a predetermined time period, wherein the monitoring is triggered by the detecting of the change of state of motion of the apparatus." Such features are rejected by the applied art for at least reasons substantially similar to those described above with respect to claim 1.

Claims 9 and 12 depend from claim 7 and are rejected by the applied art for at least the same reasons as claim 7.

**4. Independent Claim 10 And Dependent Claim 13**

Independent claim 10 recites "detect a change of state of motion of the apparatus from a state in which the apparatus is substantially at rest, to a state in which the apparatus is in motion; monitor for a user-induced input activity during a predetermined time period, wherein the monitoring is triggered by the detecting of the change of state of motion of the apparatus." Such features are rejected by the applied art for at least reasons substantially similar to those described above with respect to claim 1.

Claim 13 depends from claim 10 and is rejected by the applied art for at least the same reasons as claim 10.

In conclusion, the combination of Nilsen, Skorpik, and Kenagy therefore teaches each and every claim limitation of the independent claims, including at least a key lock activation condition being triggered by detecting a change of a state of motion of the system. Any claim dependent upon the aforementioned independent claims either directly or via an intermediate dependent claim is rejected for at least the same reasons as the independent claim from which it depends. As such, each and every one of the dependent claims of the present application are also rejected. For at least these reasons, the Examiner's rejection should be affirmed.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Nam Huynh/

Examiner, Art Unit 2617

Conferees:

/George Eng/  
Supervisory Patent Examiner, Art Unit 2617

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